

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

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BULLION SHARK, LLC.,

Plaintiff,

-against-

FLIP A COIN BULLION LLC, MATTHEW
FORMAN, CHRISTINA CAPPELLO, JACOB
FORMAN and JOSEPH FORMAN,

Defendants.

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**DEFENDANTS'
ANSWER, AFFIRMATIVE
DEFENSES**

Index No. 23-CV-6529

Defendants, by their attorney, Todd Wengrovsky, for their Answer and Affirmative Defenses,
state as follows:

“NATURE OF THE CASE” SECTION OF COMPLAINT

1. Defendants admit the allegations of this Paragraph of the Complaint as to the type of claims
Plaintiff is making, but denies the remaining allegations therein.

2. Defendants deny each and every allegation of this Paragraph of the Complaint.

3. Defendants deny each and every allegation of this Paragraph of the Complaint.

“PARTIES” SECTION OF COMPLAINT

4. Defendants admit the allegations of this Paragraph of the Complaint.

5. Defendants admit the allegations of this Paragraph of the Complaint.

6. Defendants admit the allegations of this Paragraph of the Complaint.

7. Defendants admit the allegations of this Paragraph of the Complaint.

8. Defendants admit the allegations of this Paragraph of the Complaint.

9. Defendants admit the allegations of this Paragraph of the Complaint.

“VENUE AND JURISDICTION” SECTION OF COMPLAINT

10. Defendants admit the allegations of this Paragraph of the Complaint.

11. Defendants admit the allegations of this Paragraph of the Complaint.

12. Defendants deny each and every allegation of this Paragraph of the Complaint.

“FACTS” SECTION OF COMPLAINT

13. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

15. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

17. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

18. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

19. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

20. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

22. Defendants admit the allegations of this Paragraph of the Complaint.

23. Defendants deny each and every allegation of this Paragraph of the Complaint.

24. Defendants deny each and every allegation of this Paragraph of the Complaint.

25. Defendants admit the allegations of this Paragraph of the Complaint.

26. Defendants deny each and every allegation of this Paragraph of the Complaint.

27. Defendants deny each and every allegation of this Paragraph of the Complaint.

28. Defendants admit the allegations of this Paragraph of the Complaint as to the nature of the employment, but deny that Defendant was a “key employee.”

29. Defendants deny each and every allegation of this Paragraph of the Complaint.

30. Defendants deny each and every allegation of this Paragraph of the Complaint.

31. Defendants deny each and every allegation of this Paragraph of the Complaint.

32. Defendants admit the allegations of this Paragraph of the Complaint that they resigned from their employment with Bullion Shark, but deny that such was without notice.

33. Defendants admit the allegations of this Paragraph of the Complaint.

34. Defendants admit the allegations of this Paragraph of the Complaint with the clarification that the limited liability company was filed on August 7, 2023 and approved on August 16, 2023.

35. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

36. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

37. Defendants deny each and every allegation of this Paragraph of the Complaint.

38. Defendants deny each and every allegation of this Paragraph of the Complaint.

39. Defendants deny each and every allegation of this Paragraph of the Complaint.

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59. Defendants deny each and every allegation of this Paragraph of the Complaint.

60. Defendants deny each and every allegation of this Paragraph of the Complaint.

61. Defendants deny each and every allegation of this Paragraph of the Complaint.

62. Defendants deny each and every allegation of this Paragraph of the Complaint.

63. Defendants deny each and every allegation of this Paragraph of the Complaint.

“FIRST CAUSE OF ACTION” SECTION OF COMPLAINT

64. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 63 herein inclusive.

65. Defendants deny each and every allegation of this Paragraph of the Complaint.

66. Defendants deny each and every allegation of this Paragraph of the Complaint.

67. Defendants deny each and every allegation of this Paragraph of the Complaint.

68. Defendants deny each and every allegation of this Paragraph of the Complaint.

69. Defendants deny each and every allegation of this Paragraph of the Complaint.

70. Defendants deny each and every allegation of this Paragraph of the Complaint.

71. Defendants deny each and every allegation of this Paragraph of the Complaint.

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75. Defendants deny each and every allegation of this Paragraph of the Complaint.

76. Defendants deny each and every allegation of this Paragraph of the Complaint.

77. Defendants admit the allegations of this Paragraph of the Complaint.

78. Defendants deny each and every allegation of this Paragraph of the Complaint.

“SECOND CAUSE OF ACTION” SECTION OF COMPLAINT

79. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 78 herein inclusive.

80. Defendants deny each and every allegation of this Paragraph of the Complaint.

81. Defendants deny each and every allegation of this Paragraph of the Complaint.

82. Defendants deny each and every allegation of this Paragraph of the Complaint.

83. Defendants deny each and every allegation of this Paragraph of the Complaint.

84. Defendants deny each and every allegation of this Paragraph of the Complaint.

85. Defendants deny each and every allegation of this Paragraph of the Complaint.

86. Defendants deny each and every allegation of this Paragraph of the Complaint.

87. Defendants deny each and every allegation of this Paragraph of the Complaint.

88. Defendants deny each and every allegation of this Paragraph of the Complaint.

89. Defendants deny each and every allegation of this Paragraph of the Complaint.

90. Defendants deny each and every allegation of this Paragraph of the Complaint.

91. Defendants deny each and every allegation of this Paragraph of the Complaint.

92. Defendants deny each and every allegation of this Paragraph of the Complaint.

“THIRD CAUSE OF ACTION” SECTION OF COMPLAINT

93. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 92 herein inclusive.

94. Defendants deny each and every allegation of this Paragraph of the Complaint.

95. Defendants deny each and every allegation of this Paragraph of the Complaint.

96. Defendants deny each and every allegation of this Paragraph of the Complaint.

97. Defendants deny each and every allegation of this Paragraph of the Complaint.

98. Defendants deny each and every allegation of this Paragraph of the Complaint.

“FOURTH CAUSE OF ACTION” SECTION OF COMPLAINT

99. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 99 herein inclusive.

100. Defendants deny each and every allegation of this Paragraph of the Complaint.

101. Defendants deny each and every allegation of this Paragraph of the Complaint.

102. Defendants deny each and every allegation of this Paragraph of the Complaint.

103. Defendants deny each and every allegation of this Paragraph of the Complaint.

104. Defendants deny each and every allegation of this Paragraph of the Complaint.

105. Defendants deny each and every allegation of this Paragraph of the Complaint.

106. Defendants deny each and every allegation of this Paragraph of the Complaint.

“FIFTH CAUSE OF ACTION” SECTION OF COMPLAINT

107. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 106 herein inclusive.

108. Defendants deny each and every allegation of this Paragraph of the Complaint.

109. Defendants deny each and every allegation of this Paragraph of the Complaint.

“SIXTH CAUSE OF ACTION” SECTION OF COMPLAINT

110. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 109 herein inclusive.

111. Defendants deny each and every allegation of this Paragraph of the Complaint.

112. Defendants deny each and every allegation of this Paragraph of the Complaint.

113. Defendants deny each and every allegation of this Paragraph of the Complaint.

114. Defendants deny each and every allegation of this Paragraph of the Complaint.

115. Defendants deny each and every allegation of this Paragraph of the Complaint.

116. Defendants deny each and every allegation of this Paragraph of the Complaint.

“SEVENTH CAUSE OF ACTION” SECTION OF COMPLAINT

117. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 116 herein inclusive.

118. Defendants deny each and every allegation of this Paragraph of the Complaint.

119. Defendants deny each and every allegation of this Paragraph of the Complaint.

120. Defendants deny each and every allegation of this Paragraph of the Complaint.

121. Defendants deny each and every allegation of this Paragraph of the Complaint.

“EIGHTH CAUSE OF ACTION” SECTION OF COMPLAINT

122. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 121 herein inclusive.

123. Defendants deny each and every allegation of this Paragraph of the Complaint.

124. Defendants deny each and every allegation of this Paragraph of the Complaint.

125. Defendants deny each and every allegation of this Paragraph of the Complaint.

126. Defendants deny each and every allegation of this Paragraph of the Complaint.

127. Defendants deny each and every allegation of this Paragraph of the Complaint.

128. Defendants deny each and every allegation of this Paragraph of the Complaint.

“NINTH CAUSE OF ACTION” SECTION OF COMPLAINT

129. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 128 herein inclusive.

130. Defendants deny each and every allegation of this Paragraph of the Complaint.

131. Defendants deny each and every allegation of this Paragraph of the Complaint.

132. Defendants deny each and every allegation of this Paragraph of the Complaint.

133. Defendants deny each and every allegation of this Paragraph of the Complaint.

134. Defendants deny each and every allegation of this Paragraph of the Complaint.

135. Defendants deny each and every allegation of this Paragraph of the Complaint.

“TENTH CAUSE OF ACTION” SECTION OF COMPLAINT

136. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 135 herein inclusive.

137. Defendants deny each and every allegation of this Paragraph of the Complaint.

138. Defendants deny each and every allegation of this Paragraph of the Complaint.

139. Defendants deny each and every allegation of this Paragraph of the Complaint.

140. Defendants deny each and every allegation of this Paragraph of the Complaint.

141. Defendants deny each and every allegation of this Paragraph of the Complaint.

142. Defendants deny each and every allegation of this Paragraph of the Complaint.

143. Defendants deny each and every allegation of this Paragraph of the Complaint.

“TWELFTH CAUSE OF ACTION” SECTION OF COMPLAINT

(*This appears to be in error: Plaintiff’s Complaint has no “ELEVENTH CAUSE OF ACTION”)

144. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 143 herein inclusive.

145. Defendants deny each and every allegation of this Paragraph of the Complaint.

146. Defendants deny each and every allegation of this Paragraph of the Complaint.

147. Defendants deny each and every allegation of this Paragraph of the Complaint.

148. Defendants deny each and every allegation of this Paragraph of the Complaint.

149. Defendants deny each and every allegation of this Paragraph of the Complaint.

“THIRTEENTH CAUSE OF ACTION” SECTION OF COMPLAINT

(*This appears to be in error: Plaintiff’s Complaint has no “ELEVENTH CAUSE OF ACTION”)

150. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 149 herein inclusive.

151. Defendants deny each and every allegation of this Paragraph of the Complaint.

152. Defendants deny each and every allegation of this Paragraph of the Complaint.

153. Defendants deny each and every allegation of this Paragraph of the Complaint.

154. Defendants deny each and every allegation of this Paragraph of the Complaint.

155. Defendants deny each and every allegation of this Paragraph of the Complaint.

156. Defendants deny each and every allegation of this Paragraph of the Complaint.

157. Defendants deny each and every allegation of this Paragraph of the Complaint.

158. Defendants deny each and every allegation of this Paragraph of the Complaint.

DEFENDANTS' AFFIRMATIVE DEFENSES

Answering further, Defendants raise the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants have not breached a valid contract or agreement with Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery by reason of waiver and/or estoppel.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff can not demonstrate injury, impact, or damage as a result of any actions or omissions by Defendants.

FIFTH AFFIRMATIVE DEFENSE

Even if Plaintiff could demonstrate injury, impact, or damage as a result of any actions or omissions by Defendants, Plaintiff failed to mitigate damages.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, due to its breach of the implied covenant of good faith and fair dealing.

SEVENTH AFFIRMATIVE DEFENSE

Defendants reserve any and all rights of set-off and recoupment that it may possess under the law.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of acquiescence.

Defendants reserve the right to assert additional affirmative defenses in the event discovery discloses the existence of same.

WHEREFORE, Defendants respectfully request this Court to grant judgment in their favor, order all claims of the complaint dismissed with prejudice, award Defendants all costs, expenses, disbursements and fees incurred herein, including reasonable attorneys' fees, and such other, further and different relief as the Court may deem just and proper.

Dated: Calverton, New York
December 1, 2023

/s/ Todd Wengrovsky
Todd Wengrovsky
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Attorney for Defendants